



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2009 REGULAR SESSION

---

SENATE BILL NO. 84

---

WEDNESDAY, MARCH 4, 2009

---

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED  
DATE March 20, 2009  
5:42 pm  
\_\_\_\_\_  
TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adler

AN ACT relating to agricultural products.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔ Section 1. KRS 45A.645 is amended to read as follows:

2        (1) (a) If purchasing agricultural products, state agencies, as defined by KRS  
3        45A.505, shall purchase Kentucky-grown agricultural products if the products  
4        are available and if the vendor can meet the applicable quality standards and  
5        pricing requirements of the state agency.

6        (b) All state agencies that purchase agricultural products shall, on or before  
7        January 1 of each year, provide a report to the Legislative Research  
8        Commission and to the Department of Agriculture describing the types,  
9        quantities, and costs of each product purchased. The report shall be  
10       completed on a form provided by the department.

11       (2) (a) Prospective vendors of Kentucky-grown agricultural products may apply to  
12       the Kentucky Department of Agriculture for marketing assistance for the  
13       authorized use of logos or labeling statements to be used on Kentucky-grown  
14       agricultural products under KRS 260.017, the Kentucky Proud™ Program.

15       (b) Before a state agency may purchase Kentucky-grown agricultural products,  
16       the vendor shall be required to participate in the Kentucky Proud™ Program  
17       established by KRS 260.017, and shall provide to the purchasing officer  
18       written certification that the agricultural products under consideration for  
19       purchase meet the definition of Kentucky-grown agricultural product.

20       (c) All state agencies that purchase Kentucky-grown agricultural products shall,  
21       on or before January 1 of each year, provide a report to the Legislative  
22       Research Commission and to the Department of Agriculture describing the  
23       types, quantities, and costs~~[amount]~~ of each product purchased. The report  
24       shall be completed on a form provided by the department.

25       (3) If a contract is awarded to a vendor that supplies agricultural products that are raised

1 or produced outside the United States or its territories, the vendor shall be required  
2 to identify the country in which the agricultural product was raised or produced if  
3 the vendor is the producer or packager of the product or if the vendor is not the  
4 producer or packager, provided the information is available to the vendor from the  
5 producer or packager of the product. The producer or packager shall clearly label  
6 that information on any containers or packages holding the product.

7 ➔Section 2. KRS 164A.575 is amended to read as follows:

8 (1) The governing boards of each institution may elect to purchase interest in real  
9 property, contractual services, rentals of all types, supplies, materials, equipment,  
10 printing, and services, except that competitive bids may not be required for:

11 (a) Contractual services where no competition exists;

12 (b) Food, clothing, equipment, supplies, or other materials to be used in  
13 laboratory and experimental studies;

14 (c) Instructional materials available from only one (1) source;

15 (d) Where rates are fixed by law or ordinance;

16 (e) Library books;

17 (f) Commercial items that are purchased for resale;

18 (g) Professional, technical, scientific, or artistic services, but contracts shall be  
19 submitted in accordance with KRS 45A.690 to 45A.725;

20 (h) All other commodities, equipment, and services which, in the reasonable  
21 discretion of the board, are available from only one (1) source; and

22 (i) Interests in real property.

23 (2) Nothing in this section shall deprive the boards from negotiating with vendors who  
24 maintain a General Services Administration price agreement with the United States  
25 of America or any agency thereof, provided, however, that no contract executed  
26 under this provision shall authorize a price higher than is contained in the contract  
27 between General Services Administration and the vendor affected.

- 1 (3) The governing board shall require the institution to take and maintain inventories of  
2 plant and equipment.
- 3 (4) The governing board shall establish procedures to identify items of common general  
4 usage among all departments to foster volume purchasing. It shall establish and  
5 enforce schedules for purchasing supplies, materials, and equipment.
- 6 (5) The governing board shall have power to salvage, to exchange, and to condemn  
7 supplies, equipment, and real property.
- 8 (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the  
9 governing board may purchase or otherwise acquire all real property determined to  
10 be needed for the institution's use. The amount paid shall not exceed the appraised  
11 value as determined by a qualified appraiser or the value set by the eminent domain  
12 procedure. Any real property acquired under this section shall be in name of the  
13 Commonwealth for the use and benefit of the institution.
- 14 (7) The governing board shall sell or otherwise dispose of all real or personal property  
15 of the institution which is not needed or has become unsuitable for public use, or  
16 would be more suitable consistent with the public interest for some other use, as  
17 determined by the board. The determination of the board shall be set forth in an  
18 order, and shall be reached only after review of a written request by the institution  
19 desiring to dispose of the property. Such request shall describe the property and  
20 state the reasons why the institution believes disposal should be effected. All  
21 instruments required by law to be recorded which convey any interest in any such  
22 real property so disposed of shall be executed and signed by the appropriate officer  
23 of the board. Unless the board deems it in the best interest of the institution to  
24 proceed otherwise, all such real or personal property shall be sold either by  
25 invitation of sealed bids or by public auction; provided, however, that the selling  
26 price of any interest in real property shall not be less than the appraised value  
27 thereof as determined by the Finance and Administration Cabinet or the

1       Transportation Cabinet for such requirements of that department.

2       (8) Real property or any interest therein may, subject to the provisions of KRS Chapter  
3       45A, be purchased, leased, or otherwise acquired from any officer or employee of  
4       any board of the institution, based upon a written application by the grantor or  
5       lessor approved by the board, that the employee has not either himself or through  
6       any other person influenced or attempted to influence either the board requesting the  
7       purchase of the property. In any case in which such an acquisition is consummated,  
8       the said request and finding shall be recorded and kept by the Secretary of State  
9       along with the other documents recorded pursuant to the provisions of KRS Chapter  
10      56.

11     (9) (a) As used in this section, "construction manager-agency," "construction  
12           management-at-risk," "design-bid-build," and "design-build" shall have the  
13           same meaning as in KRS 45A.030.

14     (b) For capital construction projects, the procurement may be on a total design-  
15           bid-build basis, a design-build basis, or construction management-at-risk  
16           basis, whichever in the judgment of the board offers the best value to the  
17           taxpayer. Proposals shall be reviewed by the institution's engineering staff to  
18           assure quality and value, and compliance with procurement procedures. All  
19           specifications shall be written to promote competition. Services for projects  
20           delivered on the design-build basis or construction management-at-risk basis  
21           shall be procured in accordance with KRS 45A.180 and the regulations  
22           promulgated in accordance with KRS 45A.180. Nothing in this section shall  
23           prohibit the procurement of construction manager-agency services.

24     (10) The governing board shall attempt in every practicable way to insure the  
25           institution's supplying its real needs at the lowest possible cost. To accomplish this  
26           the board may enter into cooperative agreements with other public or private  
27           institutions of education or health care.

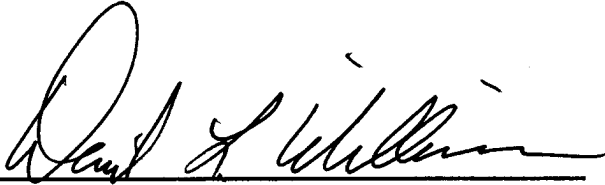
1 (11) The governing board shall have control and supervision over all purchases of energy  
2 consuming equipment, supplies, and related equipment purchased or acquired by  
3 the institution, and shall designate by regulation the manner in which an energy  
4 consuming item will be purchased so as to promote energy conservation and  
5 acquisition of energy efficient products.

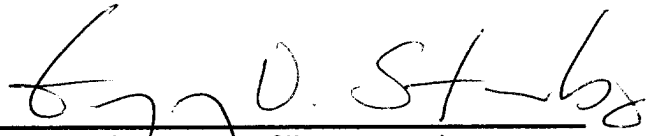
6 (12) The governing board may negotiate directly for the purchase of contractual services,  
7 supplies, materials, or equipment in bona fide emergencies regardless of estimated  
8 costs. The existence of the emergency must be fully explained, in writing, by the  
9 vice president responsible for business affairs and such explanation must be  
10 approved by the university president. The letter and approval shall be filed with the  
11 record of all such purchases. Where practical, standard specifications shall be  
12 followed in making emergency purchases. A good faith effort shall be made to  
13 effect a competitively established price for emergency purchases.

14 (13) (a) All governing boards that purchase agricultural products, as defined by  
15 KRS 45A.630, shall, on or before January 1 of each year, provide a report  
16 to the Legislative Research Commission and to the Department of  
17 Agriculture describing the types, quantities, and costs of each product  
18 purchased. The report shall be completed on a form provided by the  
19 department.

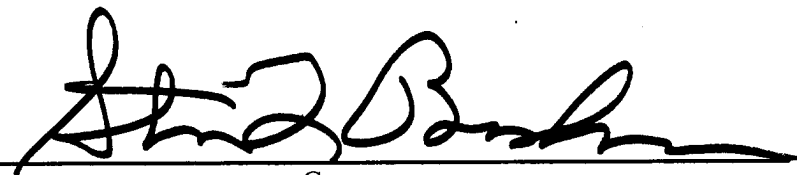
20 (b) If purchasing agricultural products, ~~as defined by KRS 45A.630,~~ a governing  
21 board shall encourage the purchase of Kentucky-grown agricultural products  
22 in accordance with KRS 45A.645. If a governing board purchases agricultural  
23 products through a contract with a vendor or food service provider, the  
24 contract shall require that if Kentucky-grown agricultural products are  
25 purchased, the products shall be purchased in accordance with KRS 45A.645.  
26 Only contracts entered into or renewed after July 15, 2008, shall be required to  
27 comply with the provisions of this subsection.

1        (c) All governing boards that purchase Kentucky-grown agricultural products  
2        shall, on or before January 1 of each year, provide a report to the  
3        Legislative Research Commission and to the Department of Agriculture  
4        describing the types, quantities, and costs of each product purchased. The  
5        report shall be completed on a form provided by the department.

  
\_\_\_\_\_  
President of Senate

  
\_\_\_\_\_  
Speaker-House of Representatives

Attest:   
\_\_\_\_\_  
Chief Clerk of Senate

Approved   
\_\_\_\_\_  
Governor

Date 3-20-09